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S E C R E T SECTION 01 OF 02 AMMAN 005627

SIPDIS

DEPT FOR NEA/ARN, EUR/UBI, EUR/NB, AND S/CT  
DOJ FOR OIA: SWARTZ AND FRIEDMAN  
BRUSSELS FOR LEGATT

E.O. 12958: DECL: 09/30/2012

TAGS: PREL PTER NL JO

SUBJECT: MULLAH KREKAR: DUTCH EMBASSY SAYS SECOND SET OF JORDANIAN EXTRADITION PAPERS NOT YET UP TO SNUFF

REF: A. THE HAGUE 2778

1B. AMMAN 5528 AND EARLIER

Classified By: DCM Gregory L. Berry for reasons 1.5 (B) and (D)

¶11. (C) The Jordanian MFA on September 26 presented to the Dutch Embassy in Amman a second, somewhat more detailed request for the extradition of Mullah Krekar to Jordan on narcotics charges. According to Dutch DCM Peter van der Vliet, the Arabic diplomatic note covering the second extradition request pledged that the GOJ will try Krekar only on the charges for which he is extradited, and that the GOJ would "not bring other charges for which the defendant could receive the death penalty." The Dutch Embassy secure faxed the second document to the MFA in The Hague on September 26.

¶12. (S) Van der Vliet called PolCouns September 29 to express his Embassy's concern that the second request -- although better than the first -- still falls short of what a Dutch court will need to extradite Krekar to Jordan. Van der Vliet said that he had received over the weekend a list of additional information requested by the Dutch Ministry of Justice. This request for more information, he commented, was dated September 26, so he did not know whether it was formulated before or after receipt of the second Jordanian document. The request from the Dutch MOJ asked for information in four areas:

-- an explanation of the legal authority in Jordan that is the basis for the extradition request;  
-- a request for more specific evidence to support the narcotics trafficking charges against Krekar, including a complete description of the alleged crime and (unspecified) evidence to support the charges;  
-- an explanation of the role and place of the Jordanian State Security Court in Jordan's judicial system, and a description of the structure and legal procedures used by the court; and,  
-- explicit guarantees that Krekar would be tried only on the charge for which he is extradited, and that he would not receive the death penalty.

Van der Vliet said that the Dutch Embassy would submit these requests for information to the Jordanian MFA in a diplomatic note on September 30.

¶13. (S) Van der Vliet underscored, however, his and his Ambassador's concern that the GOJ -- and particularly the State Security Court prosecutor's Office, which has prepared the two extradition requests to date -- does not understand what is required to convince a Dutch judge to extradite Krekar. He urged the USG to press the GOJ to submit more supporting evidence and documents, and to assist the GOJ in preparing and packaging future submissions. Van der Vliet said the Dutch Embassy and MFA want to make sure that Krekar is extradited to Jordan, but think the Jordanians will need help to make it happen.

¶14. (S) Jordanian MFA Legal Advisor Samer Naber relayed similar concerns to PolCouns separately on September 29. Naber said he had recommended that his office -- not the State Security Court prosecutor's office -- prepare the extradition papers. He expressed concern that the prosecutor's documents provide neither substantive proof of the charges against Krekar nor a defense of the due process protections incorporated in the State Security Court. He fears that a Dutch judge will equate "Security Court" with "third world military tribunal" and dismiss out of hand the validity of the court's charges. He said that he had recommended that, to assuage these potential Dutch fears, Krekar be removed from the jurisdiction of the State Security Court and be tried in a regular criminal court. Naber said the prosecutor overruled him on both counts.

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COMMENT  
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¶15. (S) We agree with the Dutch Embassy and the MFA's legal advisor that the GOJ could use additional assistance in

preparing its case for the Dutch courts. We would appreciate any comments or clarification Embassy The Hague can provide on the legal standards for extradition, as well as likely arguments the court will permit the defense to raise (e.g. attacking the validity of charges brought before the State Security Court, or directly challenging Jordanian evidence/confessions).

GNEHM